

## **Item SP05-02 Response Form**

**Title:** **Juror Questionnaire for Criminal Cases** (approve form MC-002; amend California Rules of Court, rules 4.200 and 4.201; and amend section 8.5 of the Standards of Judicial Administration)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

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\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Monday, June 20, 2005
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.  
All comments will become part of the public record of the council's action..*

Title	<b>Juror Questionnaire for Criminal Cases</b> (approve form MC-002; amend California Rules of Court, rules 4.200 and 4.201; and amend section 8.5 of the Standards of Judicial Administration)
Summary	The proposed form MC-002 is optional and designed as a tool for court and counsel to gather basic information about each potential juror and to make voir dire more efficient. The proposed amendments to rule 4.200 include additional matters to be discussed at the pre–voir dire conference and refer to the proposed questionnaire. The proposed amendment to rule 4.201 makes the rule consistent with statutory law and also refers to the proposed questionnaire. The proposed amendments to section 8.5 make the standard consistent with the proposed questionnaire and current law and propose additional practices for judges to consider when conducting voir dire.
Source	Criminal Law Advisory Committee
Staff	John A. Larson, 415-865-7589, john.larson@jud.ca.gov
Discussion	<p>In 1993 the Judicial Council approved rule 228 of the California Rules of Court, recommending the use of a questionnaire for jury selection in civil cases, and form MC-001, <i>Juror Questionnaire for Civil Cases</i>, which was developed for this purpose. The proposed form, like MC-001, is optional and designed as a tool for court and counsel to gather basic data. Form MC-002 is also designed to assist the court in making voir dire more efficient—counsel can avoid repetition during direct questioning and can use the form as a basis to build individual questionnaires tailored to particular cases. The forms also provide individual jurors the opportunity to flag for the court potentially sensitive and private matters.</p> <p>The proposed model juror questionnaire would be implemented by rules of court. Proposed amendments to rule 4.200 of the California Rules of Court would refer to the questionnaire and would add three matters to be determined at the pre-voir dire conference in criminal cases: (1) the schedule for, and predicted length of, the trial; (2) the number of, and procedures for selecting, alternate jurors; and (3) a procedure for making <i>Wheeler/Batson</i> objections outside the presence of the jury panel.</p> <p>In addition, existing rule 4.200(b) authorizes the court to require that all questions be submitted in writing before the pre–voir dire conference. Rule 4.200 was adopted in June of 1990, when voir dire</p>

was conducted by the court. The rule has not been amended since 1990 and existing subdivision (b) still provides that the court may require counsel to submit all voir dire questions to the court in writing prior to jury selection.

Because counsel are now allowed to voir dire the jury directly under Code of Civil Procedure section 223, amendments are proposed to rule 4.200(b) to allow the court to require attorneys to submit, prior to the pre-voir dire conference, only the questions the attorneys wish the court to ask during the court's initial examination. The requirement to submit questions in writing does not apply to questions counsel intend to ask jurors. Also excluded from the "written question" requirement are follow-up questions that result from a response by jurors, as those questions are not known until the court or counsel hears the juror's answers.

The proposed amendments to rule 4.201 refer to (1) the judge's affirmative duty to conduct an initial examination of prospective jurors in criminal cases and (2) form MC-002 as an optional form to use as a juror questionnaire.

The Advisory Committee comment to rule 4.200 advises that the rule should be used in conjunction with section 8.5 of the Standards of Judicial Administration. Section 8.5, however, is not consistent with California Code of Civil Procedure section 223, which permits counsel to participate in jury voir dire in criminal cases. Code of Civil Procedure section 223 requires the court to conduct an initial examination and thereafter gives counsel for each party the right to question any or all of the prospective jurors. Because section 8.5(a) currently states judges may, with a finding of good cause, permit counsel to participate in supplemental jury voir dire, this language would be deleted.

A new subpart 8.5(a)(3) is proposed that advises judges that they should consider conducting sequestered voir dire under certain circumstances. This amendment is proposed as good practice to balance jurors' concerns about disclosing personal matters in open court and concerns about discussion of media reports in high-profile cases tainting the rest of the jury panel against the public's right to open court proceedings. Sequestered voir dire includes counsel for both sides, allows the defendant to be present, and becomes part of the trial record. The court may determine afterward whether a legitimate privacy interest requires the transcript of the proceeding to be sealed

upon a showing consistent with *Press-Enterprise v. Superior Court (I)* (1984) 464 U.S. 501, as well as the removal of juror-identifying information consistent with rule 31.3 of the California Rules of Court and Code of Civil Procedure section 237.

Additional amendments to section 8.5 include: (1) a reference to proposed form MC-002; (2) questions designed to screen for juror health concerns and for hardships at the beginning of voir dire; (3) reordering and rewording existing questions to create consistency with the questions in proposed form MC-002; and (4) rephrasing certain questions using plain English.

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Attachments

# JUROR QUESTIONNAIRE FOR CRIMINAL CASES

Code of Civil Procedure Section 205(c)–(d)

## **Sec. 1. Statutory Authority**

This Juror Questionnaire has been drafted under the authority of Code of Civil Procedure section 205(c)–(d) and is intended to expedite jury selection. It is not intended to alter statutes or rules governing the authority of the court or the role of counsel during voir dire.

## **Sec. 2. Use Notes for Courts**

### **A. General**

This Juror Questionnaire is an optional form and is **NOT** intended to constitute the complete examination of prospective jurors. The utility and appropriateness of this questionnaire to a particular case is at the discretion of the judge. Particular kinds of cases may require that this questionnaire be altered or augmented with the participation of counsel. For capital cases, the Capital Case Supplement is intended to be used along with the General Questions to form the basis of a model juror questionnaire.

### **B. Pre–Voir Dire Conference**

Rule of Court 4.200 requires that the court confer with counsel about voir dire before a jury panel is called. At this conference, the court may establish (1) guidelines for the use of the Juror Questionnaire, (2) any supplemental questions to be propounded to the panel by questionnaire, (3) the extent of the court’s oral inquiry of the panel, and (4) the extent of oral questioning by counsel. Arrangements for duplication of completed questionnaires should be confirmed.

### **C. Introduction of Questionnaire to Prospective Jurors**

It is suggested that the Juror Questionnaire be used after the court has given its customary introductory remarks and any additional instructions that the court deems appropriate. The court also may wish to tell the panel members that a questionnaire will be used, to encourage complete answers, and to remind them that their answers will be given under penalty of perjury. In introducing the questionnaire, the court should instruct prospective jurors how to proceed if they have difficulty reading or filling out the form.

It is not recommended that the court direct the jury commissioner to give the Juror Questionnaire to prospective jurors in the jury assembly room. This procedure ordinarily will mean that jurors are not given complete instructions about the type of case they will hear or the identity of participants and witnesses. In addition, jurors who fill out the form before appearing in the trial court may not clearly understand that their answers are given under penalty of perjury. For these reasons, and to avoid the need to have jurors fill out supplemental questionnaires once they have been sent to the trial court, it is strongly recommended that the Juror Questionnaire be used in the trial court setting.

# **JUROR QUESTIONNAIRE FOR CRIMINAL CASES**

## **Introduction and Instructions**

Thank you for coming to court as a potential juror. Before the case can start, a jury must be selected. The judge and the parties need to know something about you in order to select jurors who can be fair to both sides.

Everyone has attitudes and opinions that are shaped by their life experiences. Sometimes these experiences can make it difficult to look at a certain issue in an unbiased and unemotional way. As a juror, you must return a verdict based on the law and on the facts proved in court. The judge will give you instructions on the law and on how you should go about deciding the case. You must listen to and follow the judge's instructions.

The questions on this form are designed to help the court and the lawyers learn something about your background and your views on issues that may be related to this case. The questions are asked not to invade your privacy, but to make sure that you can be a fair and impartial juror.

In portions of this form, you will see the term "significant personal relationship." That term means a former spouse, domestic partner, life partner, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

As you answer the questions that follow, please keep in mind that there are no "right" or "wrong" answers. The only right answer is one that reflects how you honestly feel. Please make sure your answers are as complete as possible. Complete answers are far more helpful and may help shorten the time it takes to select a jury. If you have trouble reading, understanding, or filling out this form, please let the court staff know. If a question does not apply to you please write in "N/A" for "not applicable" rather than leave the question blank.

The information you provide will become part of the court record in this case and will be a public document that is accessible to anyone. Some of the questions may require information that is personal and sensitive to you, and you may be reluctant to talk about this information with the other prospective jurors and the public present. If this is so, write "private" next to the question and the court may then give you an opportunity to share your information on the record with only the judge, counsel, the defendant, and the court reporter present. The answers you provide will, under most circumstances, be included as part of the public record but you may not have to share the information in open court.

PLEASE PUT THE LAST FOUR DIGITS OF YOUR JUROR IDENTIFICATION NUMBER FOUND ON YOUR JUROR BADGE ON THE TOP OF EACH PAGE.

REMEMBER THAT YOU ARE ANSWERING THESE QUESTIONS UNDER PENALTY OF PERJURY. YOUR ANSWERS MUST BE TRUE AND COMPLETE. THANK YOU FOR YOUR HELP IN SELECTING A FAIR JURY.

# **JUROR QUESTIONNAIRE FOR CRIMINAL CASES**

## **General Questions**

PLEASE PRINT ALL ANSWERS LEGIBLY

1.1 AGE: \_\_\_\_\_

1.2 THIS (THESE) CRIME(S) ALLEGEDLY TOOK PLACE \_\_\_\_\_  
*INSERT LOCATION OF CRIME(S)*

DO YOU RESIDE IN THE VICINITY OF THIS LOCATION OR DO YOU FREQUENT THIS LOCATION?

☐ YES ☐ NO

IF YES, PLEASE EXPLAIN:

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1.3 DESCRIBE ANY DIFFICULTIES (VISION, HEARING, OR MEDICAL PROBLEMS) THAT MAY AFFECT YOUR JURY SERVICE:

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1.4 IF YOU HAVE ANY ETHICAL, RELIGIOUS, POLITICAL, OR OTHER BELIEFS THAT MAY PREVENT YOU FROM SERVING AS A JUROR, EXPLAIN:

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Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.5 WHAT IS THE HIGHEST LEVEL OF EDUCATION YOU COMPLETED?**

☐ GRADE SCHOOL OR LESS

☐ SOME COLLEGE

(MAJOR): \_\_\_\_\_

☐ SOME HIGH SCHOOL

☐ COLLEGE GRADUATE

(MAJOR): \_\_\_\_\_

☐ HIGH SCHOOL GRADUATE

☐ POSTGRADUATE STUDY

(MAJOR): \_\_\_\_\_

☐ OTHER (PLEASE EXPLAIN):

☐ TECHNICAL, VOCATIONAL, OR BUSINESS SCHOOL

(MAJOR): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.6 IF YOU PLAN TO ATTEND OR ARE CURRENTLY ATTENDING SCHOOL, DESCRIBE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.7 IF YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE HAVE TAKEN ANY COURSES OR HAD ANY TRAINING IN LAW OR A RELATED SUBJECT, DESCRIBE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.8 EDUCATIONAL BACKGROUND OF ANY OTHER ADULT WHO LIVES IN YOUR HOME, INCLUDING ANY DEGREES OR CERTIFICATES EARNED:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.9 YOUR PRESENT EMPLOYMENT STATUS (CHECK ALL THAT APPLY):**

☐ EMPLOYED FULL-TIME

☐ RETIRED

☐ UNEMPLOYED, LOOKING FOR WORK

☐ EMPLOYED PART-TIME

☐ STUDENT

☐ UNEMPLOYED, NOT LOOKING FOR WORK

☐ HOMEMAKER

**1.10 YOUR CURRENT OR MOST RECENT OCCUPATION (AND FOR HOW LONG):**

\_\_\_\_\_  
\_\_\_\_\_

Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.11 NAME OF YOUR CURRENT OR MOST RECENT EMPLOYER OR, IF A STUDENT, YOUR SCHOOL:**

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**1.12 WHAT ARE YOUR SPECIFIC JOB DUTIES AND RESPONSIBILITIES?**

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**1.13 DOES YOUR JOB INVOLVE SUPERVISING OTHER PEOPLE?** ☐ YES ☐ NO

IF YES, APPROXIMATELY HOW MANY? \_\_\_\_\_

**1.14 ARE YOU INVOLVED IN THE HIRING AND FIRING OF OTHER EMPLOYEES?**

☐ YES ☐ NO

**1.15 ARE YOU INVOLVED IN EVALUATING THE JOB PERFORMANCE OF OTHER EMPLOYEES?**

☐ YES ☐ NO

**1.16 ALL OTHER EMPLOYMENT YOU HAVE HAD IN THE PAST 10 YEARS (AND FOR HOW LONG):**

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**1.17 THE PRESENT EMPLOYMENT STATUS OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP (CHECK ALL THAT APPLY):**

☐ EMPLOYED FULL-TIME ☐ RETIRED ☐ UNEMPLOYED, LOOKING FOR WORK  
☐ EMPLOYED PART-TIME ☐ STUDENT ☐ UNEMPLOYED, NOT LOOKING FOR WORK  
☐ HOMEMAKER

**1.18 THE CURRENT OR MOST RECENT OCCUPATION OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP (AND FOR HOW LONG):**

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**1.19 THE NAME OF THE CURRENT OR MOST RECENT EMPLOYER OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP OR, IF A STUDENT, HIS OR HER SCHOOL:**

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Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.20 WHAT ARE THE SPECIFIC JOB DUTIES AND RESPONSIBILITIES OF YOUR SPOUSE OR ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP?**

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**1.21 IF YOU HAVE CHILDREN, PLEASE LIST (INCLUDING ANY CHILDREN WHO DO NOT CURRENTLY LIVE WITH YOU):**

SEX	AGE	DOES CHILD LIVE WITH YOU?	EDUCATION	OCCUPATION
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**1.22 IF YOU, YOUR SPOUSE, OR A PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP HAS EVER SERVED IN THE MILITARY, PLEASE LIST FOR EACH THE BRANCH OF SERVICE AND DATES OF SERVICE:**

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**1.23 IF YOU, YOUR SPOUSE, OR A PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP EVER HAD INVOLVEMENT WITH THE MILITARY POLICE OR THE MILITARY JUSTICE SYSTEM, PLEASE DESCRIBE:**

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**1.24 SOCIAL, CIVIC, PROFESSIONAL, TRADE, OR OTHER ORGANIZATIONS WITH WHICH YOU ARE AFFILIATED:**

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**1.25 DESCRIBE ANY OFFICES YOU HAVE HELD IN ORGANIZATIONS LISTED ABOVE:**

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**1.26 DO YOU KNOW ANYONE ON THIS JURY PANEL?** ☐ YES ☐ NO

Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.27 IF YOU PERSONALLY KNOW ANY JUDGES OR ATTORNEYS OR COURT PERSONNEL, WHAT ARE THEIR NAMES AND RELATIONSHIPS TO YOU?**

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**1.28 HAVE YOU PREVIOUSLY SERVED ON A CRIMINAL OR CIVIL TRIAL JURY?**

☐ YES ☐ NO

ON HOW MANY CASES DID YOU SERVE? \_\_\_\_\_

APPROXIMATE YEAR(S)? \_\_\_\_\_

WHERE DID YOU SERVE ON A JURY? \_\_\_\_\_

WERE YOU A JUROR OR AN ALTERNATE? \_\_\_\_\_

WHAT KINDS OF CASES DID YOU HEAR WHILE SERVING ON A JURY?

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WAS THERE ANYTHING ABOUT YOUR JURY SERVICE THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

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**1.29 HAVE YOU EVER SERVED ON A GRAND JURY PANEL?** ☐ YES ☐ NO

CRIMINAL OR CIVIL GRAND JURY? \_\_\_\_\_

APPROXIMATE YEAR(S)? \_\_\_\_\_

WHERE DID YOU SERVE ON A GRAND JURY? \_\_\_\_\_

HOW LONG DID YOU SERVE ON A GRAND JURY? \_\_\_\_\_

WHAT KIND OF MATTERS DID YOU HEAR WHILE SERVING ON A GRAND JURY?

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WAS THERE ANYTHING ABOUT YOUR GRAND JURY SERVICE THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

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Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.30 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER BEEN A VICTIM OF A CRIME?**

☐ YES ☐ NO

IF YES, WHO? \_\_\_\_\_

WHAT CRIME(S)? \_\_\_\_\_

WHEN? \_\_\_\_\_

WHAT HAPPENED? \_\_\_\_\_

\_\_\_\_\_

WAS ANYONE ARRESTED? ☐ YES ☐ NO

WAS THERE A TRIAL? ☐ YES ☐ NO

IF YES, DID YOU ATTEND THE TRIAL? ☐ YES ☐ NO

DID THE PERSON WHO IS THE SUBJECT OF THIS QUESTION TESTIFY? ☐ YES ☐ NO

DID THE POLICE INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

☐ YES ☐ NO

DID ANYONE WORKING FOR THE DEFENDANT INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

☐ YES ☐ NO

AS A RESULT OF THAT EXPERIENCE IS THERE ANYTHING THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.31 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER BEEN A WITNESS TO A CRIME?**

☐ YES ☐ NO

IF YES, WHO? \_\_\_\_\_

WHAT CRIME(S)? \_\_\_\_\_

WHEN? \_\_\_\_\_

WHAT HAPPENED? \_\_\_\_\_

\_\_\_\_\_

WAS ANYONE ARRESTED? ☐ YES ☐ NO

WAS THERE A TRIAL? ☐ YES ☐ NO

IF YES, DID YOU ATTEND THE TRIAL? ☐ YES ☐ NO

DID THE PERSON WHO IS THE SUBJECT OF THIS QUESTION TESTIFY? ☐ YES ☐ NO

Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

DID THE POLICE INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

☐ YES ☐ NO

DID ANYONE WORKING FOR THE DEFENDANT INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

☐ YES ☐ NO

AS A RESULT OF THAT EXPERIENCE IS THERE ANYTHING THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

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**1.32 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER HAD ANY CONTACT WITH LAW ENFORCEMENT, INCLUDING, BUT NOT LIMITED TO, BEING: (A) STOPPED BY THE POLICE? (B) ACCUSED OF MISCONDUCT, WHETHER OR NOT IT WAS A CRIME? (C) INVESTIGATED AS A SUSPECT IN A CRIMINAL CASE? (D) CHARGED WITH A CRIME? (E) A CRIMINAL DEFENDANT?**

☐ YES ☐ NO

IF YES, WHO? \_\_\_\_\_

WHAT CRIME(S)? \_\_\_\_\_

WHEN? \_\_\_\_\_

WHAT HAPPENED? \_\_\_\_\_

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WAS ANYONE ARRESTED? ☐ YES ☐ NO

WAS THERE A TRIAL? ☐ YES ☐ NO

IF YES, DID YOU ATTEND THE TRIAL? ☐ YES ☐ NO

DID THE PERSON WHO IS THE SUBJECT OF THIS QUESTION TESTIFY? ☐ YES ☐ NO

DID THE POLICE INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

☐ YES ☐ NO

DID ANYONE WORKING FOR THE DEFENDANT INTERVIEW THE PERSON WHO IS THE SUBJECT OF THIS QUESTION?

☐ YES ☐ NO

AS A RESULT OF THAT EXPERIENCE IS THERE ANYTHING THAT WOULD MAKE YOU QUESTION YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE? IF SO, PLEASE EXPLAIN:

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Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.33 HAVE YOU EVER BEEN TO COURT FOR ANY OTHER REASON? EXPLAIN:**

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**1.34 THE FOLLOWING IS A PRINCIPLE OF LAW THAT APPLIES TO ALL CRIMINAL CASES:**

A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether [his] [her] guilt is satisfactorily shown, [he] [she] is entitled to a verdict of not guilty. This presumption places upon the People the burden of proving [him] [her] guilty beyond a reasonable doubt. Reasonable doubt is defined as follows: It is not a mere possible doubt; because everything relating to human affairs is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge. (CALJIC No. 2.90.0) *[Note: it is anticipated that, if approved, number 115 of the Judicial Council of California, Criminal Jury Instructions on reasonable doubt will be substituted.]*

**DO YOU UNDERSTAND THIS PRINCIPLE OF LAW?**

☐ YES ☐ NO

**DO YOU AGREE WITH THIS PRINCIPLE OF LAW?**

☐ YES ☐ NO

**WILL YOU FOLLOW THIS PRINCIPLE OF LAW?**

☐ YES ☐ NO

IF YOU ANSWERED NO TO ANY QUESTION, PLEASE EXPLAIN:

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**1.35 IN GENERAL, WHAT ARE YOUR OPINIONS, IF ANY, ABOUT LAW ENFORCEMENT OFFICERS?**

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**1.36 HAVE YOU, YOUR SPOUSE, ANY PERSON WITH WHOM YOU HAVE A SIGNIFICANT PERSONAL RELATIONSHIP, OR A RELATIVE EVER HAD A PARTICULARLY PLEASANT OR UNPLEASANT EXPERIENCE WITH LAW ENFORCEMENT OR THE DISTRICT ATTORNEY'S OFFICE?**

☐ YES ☐ NO

IF YES, PLEASE EXPLAIN:

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Juror ID number \_\_\_\_\_

Case number \_\_\_\_\_

**1.37 WOULD THE FACT THAT A WITNESS IS A MEMBER OF LAW ENFORCEMENT CAUSE YOU TO AUTOMATICALLY BELIEVE OR DISBELIEVE THEIR TESTIMONY?**

☐ YES ☐ NO

IF YES, PLEASE EXPLAIN:

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# JUROR QUESTIONNAIRE FOR CRIMINAL CASES

## Verification

I, \_\_\_\_\_, DECLARE UNDER PENALTY OF PERJURY UNDER  
(PRINT NAME)  
THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING RESPONSES I HAVE GIVEN  
ON THIS JUROR QUESTIONNAIRE, AND ON ANY ATTACHED SHEETS, ARE TRUE AND CORRECT  
TO THE BEST OF MY KNOWLEDGE AND BELIEF.

.....  
(DATE)

 \_\_\_\_\_  
(SIGNATURE)

Rule 4.200 of the California Rules of Court is amended, effective January 1, 2006, to read:

**Rule 4.200. Pre–voir dire conference in criminal cases**

(a) **[The conference]** Before jury selection begins in criminal cases, the court ~~shall~~ must conduct a conference with counsel to determine:

- (1) A brief outline of the nature of the case, including a summary of the criminal charges;
- (2) The names of persons counsel intend to call as witnesses at trial;
- (3) The People’s theory of culpability and the defendant’s theories;
- (4) The procedures for deciding requests for excuse for hardship and challenges for cause; ~~and~~
- (5) The areas of inquiry and specific questions to be asked by the court and, ~~as permitted by the court,~~ by counsel and any time limits on counsel’s examination;
- (6) The schedule for the trial and the predicted length of the trial;
- (7) The number of alternate jurors to be selected and the procedure for selecting alternate jurors; and
- (8) A procedure for making *Wheeler/Batson* objections outside the presence of the jury panel.

The judge ~~shall~~ must, if requested, excuse the defendant from then disclosing any defense theory.

(b) **[Written questions]** The court may require counsel to submit in writing, and before the conference, that all questions that counsel requests the court to be asked of prospective jurors. This rule applies to questions to be asked, either orally or by written questionnaire, shall be submitted to the court and opposing counsel in writing before the conference. The *Juror Questionnaire for Criminal Cases* (form MC-002) may be used.

**Advisory Committee Comment**

Use in conjunction with standard 8.5.

Rule 4.201 of the California Rules of Court is amended, effective January 1, 2006, to read:

**Rule 4.201. ~~Supplemental~~ Voir dire in criminal cases**

~~In criminal jury trials,~~ To select a fair and impartial jury, the judge must conduct an initial examination of the prospective jurors orally, or by written questionnaire, or by both methods. The *Juror Questionnaire for Criminal Cases* (form MC-002) may be used. After completion of the initial examination, the court ~~shall~~ must permit counsel to conduct supplemental questioning as provided in Code of Civil Procedure section 223.

Section 8.5 of the Standards of Judicial Administration is amended, effective January 1, 2006, to read:

**Sec. 8.5. Examination of prospective jurors in criminal cases**

**(a) [In general]**

- (1) This standard applies in all criminal cases.
- (2) The examination of prospective jurors in a criminal case should include all questions necessary to insure the selection of a fair and impartial jury.

~~The trial judge may, upon a showing of good cause, permit supplemental examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case, relevant to a challenge for cause.~~

- (3) The court should consider conducting sequestered voir dire on issues that are sensitive to the prospective jurors, on questions concerning media reports of the case, and on any other issue the court deems advisable.

- (b) [Examination of jurors]** The trial judge's examination of prospective jurors in criminal cases should include the following areas of inquiry listed below and any other matters affecting their qualifications to serve as jurors in the case. ~~÷~~ The trial judge may use the *Juror Questionnaire for Criminal Cases* (form MC-002) to assist in the examination of prospective jurors. Form MC-002 is an optional form and is *not* intended to constitute the complete examination of prospective jurors. Form MC-002 is a tool for trial judges to use to make the initial examination of prospective jurors more efficient. If the court uses form MC-002, its use and any additional questions submitted by counsel should be discussed at the pre-voir dire conference required by rule 4.200. Excusing jurors based on questionnaire answers alone is generally not advisable.

- (1) (Address to entire jury panel): Do any of you have any vision, hearing, or medical difficulties that may affect your jury service? (Response.)
- (2) (In particular, for trials taking place in small- to medium-sized counties. Address to entire jury panel): Do any of you know anyone else on this jury panel? (Response.)
- (3) (In particular, for lengthy trials. Address to entire jury panel): This trial will likely take \_\_\_\_\_ days to complete, but it may take longer. (State the days and times during the day when the trial will be in session.) Will any of you find it difficult or impossible to participate for this period of time? (After the entire panel has been screened for time hardships, direct

the excused jurors to return to the jury assembly room for possible reassignment to other courtrooms for voir dire.)

~~(4)~~(1) *(To the entire jury panel after it has been sworn and seated):* I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All the remaining members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he or she will be asked to answer these questions.

~~(5)~~(2) *(To the prospective jurors seated in the jury box):* In the trial of this case each side is entitled to have a fair, unbiased, and unprejudiced jury. If there is any fact or any reason why any of you might be biased or prejudiced in any way, you must disclose such reasons when you are asked to do so. It is your duty to make this disclosure.

~~(6)~~(4) Ladies and gentlemen of the jury: This is a criminal case entitled The People of the State of California v. \_\_\_\_\_. The (defendant is) (defendants are) seated \_\_\_\_\_.

- a. (Mr.) (Ms.) (defendant), please stand and face the prospective jurors in the jury box and in the audience seats. *(Defendant complies.)* Is there any member of the jury panel who is acquainted with the defendant or who may have heard (his) (her) name prior to today? If your answer is yes, please raise your hand.
- b. The defendant, \_\_\_\_\_, is represented by (his) (her) attorney, \_\_\_\_\_, who is seated \_\_\_\_\_. (Mr.) (Ms.) (defense attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.) (Ms.) \_\_\_\_\_ prior to today?
- c. *(If there is more than one defendant, repeat (a) and (b) for each codefendant.)*

~~(7)~~(5) The People are represented by \_\_\_\_\_, Deputy District Attorney, who is seated \_\_\_\_\_. (Mr.) (Ms.) (district attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.) (Ms.) \_\_\_\_\_ prior to today?

~~(8)~~(6) The defendant is charged by an (information) (indictment) filed by the district attorney with having committed the crime of \_\_\_\_\_, in violation of section \_\_\_\_\_ of the \_\_\_\_\_ Code, it being alleged that on or about \_\_\_\_\_ in the County of \_\_\_\_\_, the defendant did *(describe the offense)*. To (this charge) (these charges) the defendant has pleaded not guilty, and it will be the question of the jury will have to decide whether the defendant's guilt has been proved beyond a reasonable doubt. ~~that you will be asked to decide if you are selected as a trial juror in this case.~~ Having heard the charge(s) that (has) (have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him) (her)?

~~(9)~~(7) Have any of you heard of, or have you any prior knowledge of, the facts, or events in this case?

~~(10)~~ Do any of you have any ethical, religious, political, or other beliefs that would prevent you from serving as a juror in this case?

~~(11)~~(8) During the trial of this case, the following persons may be called as witnesses to testify on behalf of the parties or their names may be mentioned in evidence: \_\_\_\_\_ ~~(The defendant may be excused from disclosing the name of any witness. (Do not identify the side on whose behalf the witness might be called.)~~ Have any of you heard of or otherwise been acquainted with any of the witnesses just named? You should note that the parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

~~(12)~~(9) ~~Do any of you have any belief or feeling toward any of the parties, attorneys or witnesses that would make it impossible, or difficult, for you to act fairly and impartially, both as to the defendant and the People? Do any of you have any financial or personal interest in the outcome of this case?~~

(At this point the court may wish to submit any juror questionnaire that has been developed to assist in voir dire. The court should remind panel members that their answers on the questionnaire are given under penalty of perjury. If a questionnaire is used, the court and counsel may wish to question individual prospective jurors further based on their responses to particular questions, and a procedure for doing so should be established at the pre-voir dire conference. Therefore, it may not be necessary to ask all of the prospective

jurors questions 13 through 25 that follow, although the text may assist the court with following up on individual jurors about answers given on the questionnaire.)

(13)(10) How many of you have served previously as jurors in a criminal case?

*(To each person whose hand is raised):*

- a. (Mr.) (Ms.) \_\_\_\_\_ (or Juror ID number), you indicated you have been a juror in a criminal case. What were the charges ~~was the nature of the charge~~ in that case? *(Response.)*
- b. Do you feel you can put aside whatever you heard in that case and decide this case on the evidence to be presented and the law as I ~~shall~~ will state it to you? *(Response.)*

(14)(11) May I see the hands of those jurors who have served on civil cases, but who have never served on a criminal case? *(Response.)* You must understand that there are substantial differences in the rules applicable to the trial of criminal cases from those applicable to the trial of civil cases. This is particularly true respecting the burden of proof ~~which that~~ is placed ~~upon~~ the People. In a civil case we say that the plaintiff must prove his case by a preponderance of the evidence. In a criminal case, the defendant is presumed to be innocent, and before ~~(he)~~ (she) may be found guilty, the People must prove ~~(his)~~ (her) guilt beyond a reasonable doubt. If the jury has a reasonable doubt, the defendant must be acquitted. Will each of you be able to set aside the instructions ~~which that~~ you received in your previous cases and try this case on the instructions given by me in this case?

(15)(12) The fact that the defendant is in court for trial, or that charges have been made against (him) (her), is no evidence whatever of (his) (her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has ~~been arraigned and has~~ entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. ~~Until and unless this is done, the presumption of innocence prevails~~ If the evidence does not convince you of the truth of the charges beyond a reasonable doubt, the defendant is entitled to a verdict of not guilty.

In the following questions I will be using the terms “~~family,~~” “relative,” “close friend,” and “anyone with whom you have a significant personal relationship.” The term, “anyone with whom you have a significant personal relationship” means a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

(16)(14) Have you, or to your knowledge, any ~~member of your family,~~ relative, close friend, or anyone with whom you have a significant personal relationship, ever been the victim of any crime? ~~a complaining witness or a victim in a case of this kind?~~ (*Response.*)

(17)(13) Have you, or to your knowledge, any ~~member of your family,~~ relative, close friend, or anyone with whom you have a significant personal relationship, ever ~~been arrested for or charged with an offense similar to that in this case?~~ had any contact with law enforcement, including, but not limited to, being: (a) stopped by the police? (b) accused of misconduct, whether or not it was a crime? (c) investigated as a suspect in a criminal case? (d) charged with a crime? or (e) a criminal defendant? (*Response.*)

(18)(15) Have you, or to your knowledge, any ~~member of your family,~~ relative, close friend, or anyone with whom you have a significant personal relationship, had any law enforcement training or experience or been a member of or been employed by any law enforcement agency? By law enforcement agency, I include any police department, sheriff’s office, highway patrol, district attorney’s office, city attorney’s office, attorney general’s office, United States attorney’s office, FBI, ~~etc.~~ and others. (*If so, elicit the details of the experience or connection.*)

(19)(16) Would you be able to listen to the testimony of a police or other peace officer and measure it ~~by the same~~ way you would ~~standards that you use to test the credibility of any other witness?~~

~~(17) Would you have any difficulty or embarrassment in returning a verdict for or against the side which had a police or other peace officer as a witness?~~

(20)(18) (*When appropriate*) It may appear that one or more of the parties, attorneys, or witnesses come from a particular national, racial, or religious group (or may have a life style different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?



(21)(19) It is important that I have your assurance that you will, ~~without reservation,~~ follow my instructions and rulings on the law and will apply that law to this case. ~~To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law.~~ You must accept and follow my instructions even if you disagree with the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(22)(20) Each of you should now state your:

- (i) (Name) (or juror ID number);
- (ii) Children's ages and the number of children, if any;
- (iii) Occupation;
- (iv) Occupational history; and
- (v) Present employer.

And for your spouse or anyone with whom you have a significant personal relationship, their:

- ~~(vi) Names;~~
- (vi)~~(vii)~~ Occupations;
- (vii)~~(viii)~~ Occupational histories; and
- (viii)~~(ix)~~ Present employers.

And for your adult children, their:

- (ix) Occupations;
- (x) Occupational histories; and
- (xi) Present employers.

*(Please begin with juror number one.)*

(23)(21) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case or why you should not be on this jury? If there is, it is your duty to disclose the reason at this time?.

(24)(22) *(~~At this point~~ After the court conducts the initial examination, Code of Civil Procedure section 223 allows counsel to ask supplemental questions for the purposes of uncovering possible bias or prejudice relevant to challenges for cause. The court may, in the exercise of its discretion, limit the oral and direct questioning of prospective jurors by counsel. The court may specify the maximum amount of time that counsel for each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.)*

*(After the conclusion of counsel questioning, the court asks each side to exercise any challenges for cause.)*

*(~~At this point~~ After ruling on challenges for cause, if any, the court calls on each side, alternately, to exercise any peremptory challenges.)*

(25)(23) *(~~When~~ If a new prospective juror is seated, the court should ask ~~(him/her~~ him or her):*

- (i) Have you heard my questions to the other prospective jurors?
- (ii) Have any of the questions I have asked raised any doubt in your mind as to whether you could be a fair and impartial juror in this case?
- (iii) Can you think of any other reason why you might not be able to try this case fairly and impartially to both the prosecution and defendant, or why you should not be on this jury?
- (iv) Give us the personal information requested concerning your occupation, that of your spouse or anyone with whom you have a significant personal relationship, that of your adult children, and your prior jury experience.

*(Thereupon, as to each new juror seated, the court must permit counsel, ~~upon a showing of good cause~~, to ask supplemental questions, and proceed with challenges as above.)*

- (c) **[Improper questions]** When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. ~~Nor should (he) (she) allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to ensure the selection of a fair and impartial jury.~~

## **Drafter's Notes**

**1990**—Gender-neutral language is added in section 8.5 of the Standards of Judicial Administration.

Section 8.5(a)(1) of the Standards of Judicial Administration is amended concerning the examination of prospective jurors in criminal cases, to delete the reference to Code of Civil Procedure section 223.5, which has been repealed by the initiative.

Section 8.5(a)(2) is amended concerning the examination of prospective jurors in criminal cases, to reflect the limitations on the participation of counsel in voir dire found in new Penal Code section 223.

New rules 228.2 and 516.2 are added to provide for supplemental examinations in criminal cases, and section 8.5(a)(3) of the Standards of Judicial Administration is repealed concerning the same subject.

**1997**—Standard 8.5 was amended to recommend that the judge explain to potential jurors in a criminal case that they are to determine whether the defendant's guilt has been proven beyond a reasonable doubt.